OUR CRIMINAL LAWS. Are They Sufficient? Are They Pro-

perly Enforced? THE ALLEGED "DELAYS."

Are They Real, or Are They Mostly Imaginary?

VIEWS OF LEGAL LIGHTS.

Prominent Virginia Attorneys Discuss These Questions.

OPINIONS DIFFER.

The Majority, However, Think Our Statutes Need Revision.

LYNCHING CONDEMNED

And Juries Do Not by Any Means Escape Criticism.

POORLY-PAID JUDGES.

Niggardliness of the State in This Important Particular.

FACTS FOR LEGISLATORS.

Suggestions to the General Assembly to Which Attention is Asked.

For the benefit of Dispatch readers and the general public, the editor of this paper recently asked a number of promient members of the bar their opinion "as to the foundation for the widespread belief that there is great tardiness (in Virginia) in enforcing the law against criminals, and that the ends of justice are often defeated by convictions which are reversed by appellate courts upon trivial technicalities." Also, if, in their opinion, "legislation on this subject is cessary, and if so, what?"

In response to this inquiry the following expressions are printed, and in a future a issue of the Dispatch others (which reached us later than these) will appear.

The information given in these letters and interviews is valuable, and must com nesses in our system of criminal laws are pointed out, and suggestions are made which, if adopted by the General Assembly, will go far towards curing the evils

R. G. H. KEAN, ESQ.

The Fetich We Have Made of Our Juries-111-Paid Judges, Etc.

To the Editor of the Dispatch: Responding to your inquiry, I submit the following suggestions:

There is no room for doubt as to the fact that the administration of criminal justice in Virginia is deplorably lax and inefficient. And while to a moderate (I might almost say a slight) extent this is might almost say a slight) extent this is due to the technical preciseness required by the appellate courts in proceedings at the suit of the Commonwealth, the main requires of the mischief, in my humble trial to the worst criminals; and second, source of the mischief, in my humble source of the mischief, in my humble opinion, is neither in the laws for the innocent, if charged with crime. A system that denied either would be worse of the appellate courts. of the appellate courts.

The causes which conspire to make our criminal justice dilatory and uncertain are numerous. Among them I note the following as the most important:

1 The facility with which continuances are obtained. It often happens that a flagrant offender, after being indicted, manages to secure several continuances, The effect of this almost always is that the indignation which righteously nerves the public sense to inflict punishment cools down, and a certain facility of temper, characteristic of our people, gives rise to a more or less active sympathy for him, which leads the jury which finally tries the case to acquit on proofs which at an earlier date would have sufficed to cause a conviction. OUR COURTS

2. The courts which usually try felonies, under our present system, are for the most part presided over by men generally worthy in character, and fairly equal to the satisfactory discharge of ordinary the satisfactory discharge of ordinary county business, but notoriously unequal to cope with the array of legal talent and skill representing the defence in important criminal cases. What else can be expected when the disastrous parsimony of our people pays the county judges an annual salary ranging from \$300 in the small counties to \$900 in the larger ones, and to circuit judges only \$1,600? In those countries where criminal justice is swift, sure and just (as in England and New Jersey), the judges are the most able and Jersey), the judges are the most able and learned men in the profession, and are paid accordingly. The judge is the supe-rior of the bar, not its conscious inferior. 3. By our law the Commonwealth has no appeal, hence the tendency in courts distrustful of their own attainments is mistakes are never exposed or corrected; only those made against the prisoner ever come before an appellate court, JUDGES WHO SUM UP.

JUDGES WHO SUM UP.

4. In Virginia the judges have never been allowed to "sum up." Perhaps, with a bench hardly paid as well as fourth-rate clerks in a counting house, it is as well that they should not. But if our people could once be educated to understand that niggardliness in judicial salaries can command only a low-grade of competency (the most costly service possible), and be brought to pay salaries which could command the first-rate men for the bench, the judges ought to be allowed to "sum up," so as to guide the juries" to the true points on which the question "guilty" or "not guilty" ought to turn. We have made a sort of fetich of the independence (really the igresponsibility) of juries. It is a disagreeable thing to condemn a fellow-man to death or other heavy punishman to death or other heavy punish-t, a thing from which the unguided and irresponsible juror shrinks. If an able and impartial judge "sums up." every intelligent juror and bystander will see the point on which the verdict must depend so clearly that there would be little room for paltering with duty.

LENIENCY OF JURORS.

8. But, in my opinion, the most flagrant defect in our administration of criminal justice lies in a vitiated sentiment pervading the public and leading jurors to acquit when they ought to convict. The juries are chosen in as impartial a manner as it is possible to devise, yet it is a fact familiar to every close observer of the doings of our courts that, measurably, the very same men who will black their faces and join in a mob-murder of an accused person on the pretext that the law will allow him to escape—will often acquit him, as jurors, in the face of convincing evidence, Strange, indeed, it is, but true that many persons in mere willfulness and passion will commit this most deadly offence assainst society on the very culprit they will turn loose by their verdict when the fact of his guilt has been fairly proved. Great 'clamor is raised by ignorant or unreflecting persons about the escape from justice of a very few offenders by technical rulings of the appellate courts. For every one who thus goes unwhipped of justice there are at least a score, probably several score, who escape, first, by the errors of the trial courts in the prisoner's favor, and second, by the failure of the juries to do chair duty. These I consider the most petential causes which have given rise to the just but undicarriminating feeling in the public mind that our criminal justice is a failure. If I am correct in this LENIENCY OF JURORS. but undiscriminating feeling the mind that our criminal justicializes. If I am correct in this fag is bayend the reach of direct Indirectly, much might be would pay chough to get the cost men as the beach and give right to from up," in no long the opinion, would be educated

the name must ex vi termini have its technique, and, therefore, technicalities may be essential to the protection of liberty and life. Really trivial ones ought to be disregarded whenever the record shows that the accused has had a full and fair trial on the merits.

REMEDIES PROPOSED. I think that, without infringing any onstitutional provision, section 4658, of he Code, might be amended and re-en-

the Code, might be amended and re-enacted as follows:

Make two clauses of it, of which the
first shall be the section as it stands, and
the second to this effect:

"Second. When it shall appear from the
record that the accused has had a full
and fair trial on the merits, no defect in
the indictment or in any of the proceedings antecedent to the swearing of the
larve shall be regarded as reversible error.

ings antecedent to the swearing of the jury shall be regarded as reversible error, unless the same be so essential that judgment according to the very right of the cause cannot be given."

No statute ought to stand in the way of a new trial—first, when the proceedings have been so erroneous that judgment, according to the right of the cause, cannot be given; second, when improper evidence has been admitted prejudicial to the accused; third, when the trial court has instructed the jury erroneously against the prisoner, &c. There are other incidents which may necessitate a new trial, as separation of the jury, proceedings in the absence of the accused, &c., which I do not see any mode of safely interfering with, nor would it be safe to give the State the right of appeal. It would tend strongly to oppression.

would tend strongly to oppression.

While such, or a more comprehensive, statute of jeofalls might be useful, none, in my opinion, can be enacted which will do more than scratch the surface of the mischief.

To reach its core, we must have abler To reach its core, we must be courts, and give them the right to "sum up." This is done in the Federal courts and in other States; and the liberties of and in other states; and the liberties of the court in the laws and suffered—only those the people have not suffered—only those of miscreants, which it is the very end of public justice to curtail.

R. G. H. KEAN.

Lynchburg, October 18, 1893.

WILLIAM M. FLANAGAN, ESQ. Law's Delays Versus Murderons

Mobs-Critics Criticized. Mr. William M. Flanagan, of Powha tan, has been the Commonwealth's attorney of that county for fourteen years. A Dispatch reporter met him yesterday and, in view of his experience, asked his opinion of the foundation for the belief that there is great tardiness in enforcing

that there is great tardiness in entorems our criminal laws.

Mr. Flanagan replied, in substance: "I don't know that my opinion is worth recording, but an extensive experience with criminal prosecutions has necessitated on my part a vigorous study of our system of criminal procedure. I have sought and read all of the recent critical control of the pression this line that are sought and read all of the recent criti-cisms of the press on this line that are within my reach (prompted, as I presume, by recent lynchings), among the rest the article of Dr. J. J. Lafferty in the Rich-mond Christian Advocate. Taking it as a sample, I give it as my humble opinion that the complaint is unfounded and ill-advised.

JESSE MITCHELL. "Dr. Lafferty refers to the Jesse Mitchell case recently decided by the Supreme Court of Appeals, and, while that court needs no defence at my hands, the Doctor has committed a serious blunder, as I humbly conceive, in that he assails the judgment of that court and, in doing so, unfortunately garbles the statement of the case.

"It is true that then the court sustained an exception to the sheriff's return, as he says, upon a ground that he deems technical, but in his criticism of the case the Doctor fails to state the important fact that there was nothing in it to show that the prisoner had demanded to be tried in the Circuit Court and the essential of jurisdiction or power to try was there-fore wanting in the Circuit Court. No thinking man would complain of that ruling. Jurisdiction is a fundamental requirement, and without it the case is as though a private citizen passed sentence. "There are many impetuous critics who safeguards that have been thrown around and there is not one of them that should be removed.

CRITICS' COMPLAINTS. "One fact is noticeable as to these com-plaints. They are generally based upon delays of convictions, and the critics are quiet when an innocent man, after a long and tedious wrangle with the Common-wealth, is finally discharged. I had a case of the latter sort. My client was twice convicted. Twenty-four men had solemnly

pronounced him guilty. He was sentenced to be hung. Three judges agreed with these jurors. A third jury acquitted him in ten minutes after the case was sub-mitted to them. The judge who last tried him declares him an innocent man, as I believe he was. A demand for speedy execution would have been natural at the end of the second trial there, and if the end of the second trial there, and if the precautions and remedies which the law prescribes could have been set aside he would have suffered at once. These availed him, and he is living to-day, as he should be, This is hardship of a different kind, but still a hardship.

THE AMELIA CASE.

"The fact that a negro was twice convicted in Amelia and was not hung until a gang of murderers did it, and that another was hung and burned up at Roanoke, and the investigation which the law has justly guaranteed prevented, is no ground for change or revolution in our criminal court procedure and practice. Observa-tion has taught me that it is time enough to demand punishment when it is meted out by the law and according to law We are not to amend just laws simply because bloodthirsty mobs become im-patient and over-ride the law.

"The change that I would suggest is more rigid laws against mob violence, and a manly and fearless execution of such laws, thereby enforcing unqualified obedience to and teaching respect for the law MOB LAW.

MOB LAW.

"Many comments upon the mobs that refuse to submit to what is called the laws' delays, and that disregard lawful results of legal trials are doubtless made in good faith and for the laudable purpose of condemnation. Sifted down and read between the lines many of them are nothing more nor less than pleas of justification. These are truly 'hot-beds' of rlots. Such writings are intended more to defend lawlessness and excuse violence defend lawlessness and excuse violence defend lawlessness and excuse violence than to reform or improve the laws. \$50 long as the laws are administered by human instrumentalities innocent men will be sometimes punished and the guilty

will sometimes go free.

"That there are defects in the laws of greater or less magnitude, all admit. So with all human institutions. They will never be perfect, nor are they radically wrong. Let them remain substantially as they are. Enforce them rigidly and you meet every present necessity.

HON. R. T. BARTON.

He Quotes His Address Before the Vir ginta Bar Association. WINCHESTER, VA., October 18, 1893.

To the Editor of the Dispatch: You ask me for my "opinion as to th oundation for the wide-spread belief that

foundation for the wide-spread belief that there is great tardiness in enforcing the law against criminals, and that the ends of justice are often defeated by appellate courts upon trivial technicalities." I do not think I can give you my views on this subject better than by quoting from the address delivered by me as president of the Virginia State Bar Association at its last annual meeting held at the White Sulphur Springs in August, 1883, the subject being "The Punishment of Crime." The quotation is as follows:

"Speaking of the changes in criminal procedure about the time of William and Mary, Pike, the author of the "History of Crime in England," says: "The old attempts to crush a prisoner by invectives from the bench, to interpret everything to his disadvantage, and to deprive him as far as possible of a hearing, are succeeded by a protection invariably accorded to him by an anxiety to ascertain everything in his favor, and even by a wish to find a doubt of which he may have the benefit." England has reacted sensibly from this reaction, but have not we in America carried the original reaction much toe far? Does not our system suffer inordinate delays to occur and obstacles to trials to be interposed, so that, as we say, men's passions may cook, but really causing the just spirit of public indignation to be worn out and to faint, and with the result in favor of crime and against the common weal?

INCREASE IN MURDERS.

Jury by Judge Issac C. Parker not long since at Port Smith, Ark., he announced that the statistics showed an increase in discovered murders of from 2.58 in 1895 to \$ 5,791 in 1892, and that the whole number of murder signer during those four years amounted to 20. 5 57, and that for the three years of 1893, 1891, and 1892, the number of murders discovered was 16,097. For this last number of murders 850 persons were executed only 1832 were executed under process of law, while the remaining 505 were lynched. The statistician of the Chicago Tribune years and 115,307 escaped, but of the 850 executed only 332 were executed under process of law, while the remaining 505 were lynched. The statistician of the Chicago Tribune years and 28 lynchings in the Northern States, and 728 legal executions and 45 lynchings in the Northern States, and 728 legal executions and 45 lynchings in the Southern States. These statements can at best be but approximations, and the jucidude none of the attempts at murder, and none of those for which grand juries from one reason and another have found no indictments. • • 18 to it is a most startling fact that less than 2 per cent, of the murderers during those three years were executed by process of law, while new crimes had to be committed in order to bring nearly 3 per cent, of the murderers to the punishment they deserved. Equally as startling is the fact that only about 5 per cent, of the murderers are executed at all.

LYNCHINGS IN THE SOUTH.

"Another startling fact which comes home most forcibly to us, is found in the large disproportion of lynchings at tributed to the southern States. There is in the forced co-dwelling of the two races in the South, and in the strained relations which result therefrom; in the differences of temperament—the temptation and health of the process of the proportion of lynchings at the force of the process of th

tion and the norrible Gillie to and the norrible Gillie to the conscious possibility of which puts reason to flight and scatters self-control to the winds—a just reason for this great difference as the laws are and as they are administered. To those who ignorantly rail against us, all this is an unrealizable theory while to us it is a horrible contheory, while to us it is a horrible con-dition. But justify ourselves as we may, after all, lynching is murder in some degree, and every tolerated instance of it in any community is a lapse to that extent into barbarism. It must be stopped at all hazards, if we will preserve the reign of law in this country. I do not believe it can be stopped by the 'strong arm,' for the irresistable impulses which arm, for the irresistable impulses which move men, often good men, to such a deed, would break the 'strong arm.' He, however, who thinks that nothing can be done by the law has no confidence in the existence of an enlightened and undemagogued public opinion, and has lost faith in the power of the people to rule themselves. I have an abiding confidence in the ultimate conservatism and law-abiding spirit of the American people, and all they need are guides to point and lead the way. An able speaker, and wise man, a year ago in an address to this association, pointed out the reasons for these frequent failures of justice. He found them in inordinate delays not estimated to justice; in continuances on insufficient excuses; frequently in dishonest jurors and in slight and insufficient versions. sufficient excuses; frequently in associated jurors and in slight and insufficient verdicts caused by personal mawkish sentiment; and to these I add new trials too lightly granted; reversals on technical and grounds, and in the too often ined demagogy of counsel.

THE FREE WRIT OF ERROR. "Now, let me add one more to this list, which I deem a most important addition— I mean the substantially free, right of writ of error to the convicted and i results? Our Constitution requires the concurrence of at least three of the mem-bers of our highest court to declare an act of the General Assembly unconstituact of the General Assembly unconstitu-tional, and yet, in favor of the accused, the best considered act of the people's representatives may be wholly annulled by the flat of one county or corporation judge and the people have absolutely no judge and the people have absolutely no appeal. This is a travesty upon the can-tion of the Constitution and a favor to the criminal classes which is denied to the community, to the law-abiding, and the

PETTED CRIMINALS. "Instead of punishing our criminals, we often pet and cajole them. If we hang them we make heroes of them and waft them to Heaven with the tear and triumph of the martyr. We let foolish women visit them in prison and weep over them and garland them with flowers; and sentimental men crowd the lobbles of the Governor to pray his pardon for the guilty, if there be a shade less in his the guilty, if there be a shade less in his guilt than was true of some atroclous predecessor. Thus we turn the blade of the law when it is drawn for punishment. the law when it is drawn for punishment, and the salutary work of the prosecutor goes for nothing. It is in our power to furnish a remedy for all of this. Punishment for crime should not be too severe, but it should be swift, certain, inexorable, and unrelenting, and for certain offences the time which shall elapse between the commission of the offence and its explation on the scaffold should be so short that the lyncher will find his occupathat the lyncher will find his occupa-tion gone, and all men will learn to look aiways to the law as the sure and just punisher of the guilty, as they should ever find it in the certain protector of the innocent."

AS TO LEGISLATION. Further than what is intimated in the extract thus furnished to you I cannot extract thus furnished to you I cannot just now answer your enquiry as to whether "in your (my) opinion legislation on this subject is necessary, and if so, what," for I have not given the subject that consideration in detail that would enable me to express a well-formed opinion upon it.

Yers truly yours &c.

on upon it.

Very truly yours, &c.,

R. T. BARTON. GENERAL GEORGE J. HUNDLEY. Over-Tenderness for the Supposed Rights

of Criminals. AMELIA C. H., VA., October 18, 1893. To the Editor of the Dispatch:

I have no doubt that our criminal laws are defective. They countenance delay, and afford far too much room for raising quibbles and technical points by astute lawyers, by which the course of justice lawyers, by which the course of justice is seriously impeded. Many of these defects come down to us by inheritance from the common law of our English ancestors, and many more arise from the cumbrous frame-work of our own statutes. There is a sad lack of common sense in the system, and an overstrained tenderness for the supposed rights of tenderness for the supposed rights of

TECHNICALITIES.

TECHNICALITIES.

Undoubtedly the ends of justice are often defeated by appellate courts upon trivial technicalities. This last may be remedied by carefully selecting the material of which judges are made. They should be men of strong intellect, too powerful to be warped or dwarfed by the narrow channel of professional life, of wide and accurate learning, of unswerving firmness, self-reliance, and inof wide and accurate learning, of un-swerving firmness, self-reliance, and in-dependence of character; men on occa-sion able to shake off technical trammels, to discriminate the vital and important from the trivial and immaterial, to steer the craft of justice out of the reeds and bull-rushes of technicality into the wide sea of principle, which, though broad, nevertheless "hath its bounds." Our judges should be payed enough to place them above want or even anxiety for the future, and should hold their-positions during life or good behavior. The tempta-tion to seek favor of the influential few amongst lawyers and politicians and tion to seek favor of the influential few amongst lawyers and politicians and popularity with the masses, is fatal to the prompt and independent administration of justice, and should be removed as far as possible from the judge. No candid man can deny that we have suffered greatly by reason of our departure from the ancient order in these respects, or doubt the superiority of the present Fede-ral system over ours.

ral system over ours. I yield to none in my admiration and love for the law as a system and a science, but I must admit that there is great reason for the prevailing distrust of its methods and the idea that it does not afford adequate protection to the right of person and property. As a consequence, our laws are falling into contempt, and the people are more and more inclined to take the execution of justice in their ewn rude and unsanctified hands. It is worse than idle to denounce the violators of law in this form as murderers and outlaws. Comparatively few persons engage in "lynching," but let an attempt be made to enforce against them the penalties of violated law, especially where rape gave the occasion, and it will at once be seen that they are shielded by the majestic shadow of public sentiment from punishment. Not that they are justified in the eyes of the orderly, quiet, and self-contained portion of any community, but that all men feel the absolute necessity for the prompt suppression of this species of crime, and all men see that the ordinary machinery provided for that purpose is sadly defective.

DEMURRERS.

Time and space do not allow me to go LYNCH LAW.

Time and space do not allow me to go into particulars, but an examination of the reported cases will bear me out in the assertion that by far the larger number of new trials granted are for mere technical errors, which, to the ordinary mind, at least, appear trivial.

The law allows motions to quash to be made and demarrers entered without the assignment of any reason whatever. That is, when a lawyer simply says, "I move to quash, ev-I deman," and takes

mies of all that is established, and the advocates of disruption and anarchy, it behooves us to search out and strengthen all weak points in our defences. A few words now as to the remedy. Our system of criminal law should be thoroughly revised and the practice regulated. Counsel should be required always to give reasons for objections raised in the trial court or be debarred from relying on them in the appellate court.

ERRORS OF INADVERTENCE. ERRORS OF INADVERTENCE.

Clerks and sheriffs should always be allowed to correct, under the supervision of the court, errors of inadvertence, when it appears that the prisoner can suffer no wrong thereby, and no new trial should be allowed, except for cause going to the merits of the case. The county courts, which sit once a month, should have exclusive original jurisdiction of all crimes, and arrestly allowed directors.

which may help to excite inquiry into this important subject, than as matured recommendations. Yours, etc., GEORGE J. HUNDLEY.

JACKSON GUY, ESQ. the Chief Thing Needed.

To the Editor of the Dispatch: It is my opinion that the recognized inadequacy of our courts of law to properly deal with a party charged with the criy deal with a party charged with the commission of rape is the foundation of the lawlessness so prevalent in the country. I separate that crime from all others by a wide margin. In cases of other crimes there may justly be complaint as to the sufficiency of our courts to properly punish criminals. I do not believe they fulfil the expectations of the people in punishing promptly, surely, and sufficiently. But in those cases I believe a heavy responsibility rests upon the judge and ly. But in those cases I believe a heavy responsibility rests upon the judge and the other officers of the courts, and that a faithful performance of their duties, rather than great changes in the law, is what is needed. I am not prepared to say, however, that even here revision should not take place. One thing strikes me as stupid—in this age of the newspaper to exclude from service on the jury any me as scuper in this age of the aewspaper to exclude from service on the jury any man who has formed or expressed an opinion because he has heard or read any part of the evidence. That is simply a premium on ignorance, and its tendency is sometimes to get a jury below the intellectual rank of the accused. And in this connection allow me to say that Interectial rank of the accused. And in this connection, allow me to say that I think the laws exempting from jury duty persons who join volunteer militia companies and such things, victous because I think the courts are entitled to have the very best of juries that can be gotten, especially in criminal cases.

THE NEGRO'S CRIME. In the case specifically mentioned by me, the situation may be assumed to be this: The crime of the rape of a white girl by a negro man is of frequent occurrence where a negro population abounds, and that is in the southern States, It is avenged in almost every in-stance where the perpetrator is appre-hended by the friends of the victim and hended by the friends of the victim and by a process known as lynching. Publicists abroad, whatever those in our midst may opine, condemn the method as barbarous; and, in candor, we must admit that our section is made to suffer at the bar of the enlightened public opinion of the world. Is there no cure, no relief?

My postulate is that our system of judicature is entirely inadequate to meet the demands of the case. It is a misfit. The machinery is cumbrous. When it moves it runs too slow. If a lyncher were put on his voir dire, his answer would be: "I must punish the scoundrel because society, much more my family, would not be safe in future, I can't rely on the society, much more my family, would not be safe in future. I can't rely on the courts because of the delay in bringing the party to trial; the cruel exposure of my protege in being compelled to nar-rate in the presence of a mixed, curious, and crowded assembly the revolting cir-cumstances of the crime, and lastly, be-cause of the uncertainty then that he will be nunished."

Admit the crime, and nobody will dispute the justness of administering capi-tal punishment. It is severe, but it is proper. Can a plan be devised which will satisfy the sentiment as uttered above? Yes, if our society is not unen-lightened, but only sluggish. Then,

MY PLAN. The crime is committed. Let it be competent to arrest the suspect without warrant. Let the victim or her protector lodge complaint with the County Judge, lodge complaint with the County Judge, Clerk, or Sheriff, according to convenience. Let it be the duty of that functionary to have a jury of triers summoned at once, the judge of the court informed, the charge drawn up by the attorney for the Commonwealth, either at the courthouse, or the home of the victim, the judge to open his court forthwith, and to remain in continuous session (taking only reasonable recess) until the prisoner is tried, and, at the trial during the giving in of the testimony by the victim, let the general public be excluded. If the prisoner is found guilty, let nim be forthwith executed, or conveyed to the peniwith executed, or conveyed to the peni-tentiary, should that be the sentence; or, if acquitted, let him be discharged.

This plan will dispense with (1) the formal complaint on oath before the issue

formal complaint on oath before the issue of a warrant to arrest; (2) the issue of a warrant to arrest, (3) the previous examination before a justice, (4) a grand jury and an indictment, (5) the keeping of the prisoner on hand after verdiet of guilty and sentence, and (6) any appeal. It will ensure (1) speed, (2) a fuir trial, because the crime is to be proven to the satisfaction of the jury of twelve and of the presiding judge; (3) as much and of the presiding judge; (3) as much tenderness for the feelings of the outraged tenderness for the feelings of the outraged victim as legal methods can afford.

THE CONSTITUTION.

The plan, moreover, is consistent with the Constitution, which provides:

That, in all capital or criminal prosecutions a man hath a right to demand the cause and nature of his accusers and witnesses; to call for evidence in his favor, and to a speedy trial by an impartial jury of his vicinage, without whose unonimous consent he cannot be found guifty; nor can he be compelled to give evidence against himself; that no man be deprived of his liberty except by the law of the land or the judgment of his peers."

And it is, therefore, entirely within the compass of the Legislature to enact.

If this were done, then mob violence in every case should be discountenanced, and the severest punishments and penalties prescribed to put a stop to it. But, in my humble judgment, until that or some such remedy is provided for the crime mentioned, lynching will continue, and it will continue here and throughout the South in unabated violence.

Yours truly,

JACKSON GUY, THE CONSTITUTION.

W. R. M'KENNEY, ESQ.

Appeals from County to Circuit Courts

To the Editor of the Dispatch:
In reply to your letter, I have to say that I think one of the most fruitful sources of "tardiness in enforcing the law against criminals" in the courts of the Commonwealth, outside of the cities, is the law which gives the right of appeal from the County Court to the Circuit Court, and from the Circuit Court to the Court of Appeals; while in the edites the right of appeals is from the Corporation Court to the Court of Appeals are the Court of Appeals direct.

In other words, if a man countie mur-

THE AMELIA CASE. THE AMELIA CASE.

The Amelia case, which has recently attracted so much attention, well illustrates the view I wish to express, and it seems to me that the Legislature ought either to deprive the County Courts of the almost exclusive criminal jurisdiction which they now enjoy; or it ought to make the right of appeal from the County Court directly to the Court of Appeals.

There is no good reason why a criminal who commits a crime beyond the limits

who commits a crime beyond the limits of a city should be given three chances, while the perpetrator of a like crime within a city's limits is allowed but two, Truly yours, W. R. M'KENNEY, Petersburg, October 18, 1893.

W. O. HARDAWAY, ESQ.

Observations of an Attorney for the Commonwealth-Cseless Continuances, Etc. ROANOKE, VA., October 16, 1833.

To the Editor of the Dispatch: It is unquestionably true that the criminal laws of Virginia are not enforced as promptly as they should be. This delay is attributable to many causes that are not easily corrected either by legislative enactment or otherwise. Anyone femiliar with our criminal code will readily admit that the penalties for all sorts of crime are severe enough in this State, and could they be speedily enforced the people would have nothing to compain of. When crime is committed the party accused should be tried at the earliest possible moment. A prompt trial, however, is not always possible, and sometimes it is not just to the accused that a trial should be had at once.

DELAY AND PUBLIC EXCITEMENT. nal laws of Virginia are not enforced as DELAY AND PUBLIC EXCITEMENT.

should be had at once.

DELAY AND PUBLIC EXCITEMENT.

There are times when public excitement may be such that the accused could not have a fair and impartial trial without some delay, and no just and fearless judge under such circumstances would hesitate to continue his case. But there is a disposition to delay criminal cases when there is no necessity. The Constitution guarantees to every one accused of an offence a speedy trial, but this is the last thing a criminal wants. He as well as his astute lawyer-knows that his safety lies in the law's delay, and every effort is made to secure a continuance if it is possible to do so. This delay, unfortunately for the proper execution of our criminal laws, is too often obtained. The accused generally brings himself within the rules, and our judges, I suppose, think there is nothing for them to do but to grant the continuance. And this proceeding is often repeated from term to term until some of the witnesses are dead, or scattered to the four winds of Heaven, when the accused, seeing there is fair saling, announces himself ready for trial. The result is often an accuittal or a slight penalty for a grave offence.

In this way the ends of justice are too often defeated.

CONTINUANCES OF CASES.

CONTINUANCES OF CASES. CONTINUANCES OF CASES.

Our judges outht to be loth to grant continuances except for very good causes, and even then only for such a period as will enable the accused to make a proper defence. But if the power to grant continuances, except for good cause, was taken away and rigidly enforced I fear the occupation of many judicial Othelios would be gone. In my opinion continuances of cases, both civil and criminal, bring about more miscarriages of justice than all other causes combined. This can

would be gone. In my opinion continuances of cases, both civil and criminal, bring about more miscarriages of justice than all other causes combined. This can be remedied by the judges only. When the accused asks for a continuance because of the absence of a witness the judge, where it is possible, ought to send for the witness and proceed with the case. If it is not possible to get the witness at once, the case ought to be set for an early day, not continued until the next term of the court unless absolutely necessary, and the officers of the court should be compelled to have the witness present, if possible, Judges too often, also, continue important cases merely to suit the convenience of attorneys. This should never be done. When an offence has been committed axainst the Commonwealth the State has a right to demand that the criminal should be tried at once. This does not work a hardship upon the accused if he is guilty, and if certainly ought to be done if we desire to properly enforce our criminal laws. If innocent, an accused person has nothing to fear from a speedy trial under our laws. A legislative enactment requiring judges to try criminal cases at the term when the indictment is found, where it is possible to be done, would be beneficial, and in a measure correct the evil of continuances and in addition save the State much unnecessary expense.

BAIL TOO OFTEN GRANTED.

BAIL TOO OFTEN GRANTED. in important felony cases where the evidence is plain that the accused is sullity. If the accused can get bail and then from term to term secure several continuances, which too often happens, he is subjected to but little personal inconvenience, and when his trial does come he often receives an honorable acquittal from the jury, however guilty he may be. If he is sent to jail after preliminary examination, as he cught to be when the evidence shows that he is guilty, to await his trial, the application for continuances upon the var of prisoners would not be as frequent. This matter of improvidently granting bail is entirely in the hands of the courts and can be corrected by them at any time.

It is generally the case now that a criminal can secure bail, whatever may be the magnitude of his crime, if he is represented by a good attorney and is able to give a reasonably good bond. Again, I think the ends of justice are often defeated by the granting of new trials upon trivial technicalities, both by the trial and appellate courts.

VERDICTS SET ASIDE.

upon trivial technicalities, both by the trial and appellate courts.

VERDICTS SET ASIDE.

The rights and libertles of citizens accused of crime are well protected by the criminal laws of this State. Under our humane and well-considered laws it is almost impossible for a mistake or an injustice to be done in our courts to one prosecuted for a crime. With the innumerable safeguards that are thrown around criminals it is certainly no easy matter to convict one, if he has a lawyer who knows anything of criminal law. After his rights have been protected by an able lawyer of his own selection before a fair and impartial jury, if he is convicted the verdict should stand. But there are many judges who frequently exercise their judicial prerogative and set verdicts aside for every conceivable reason. Too often a new trial is granted on the merest technicality, when there can be no question about the guilt of the accused. Fractically, a new trial means that the next jury will bring in a verdict of not guilty. Why have so much nonsense about it? Why not let the jury try the case, and let its verdict be final, or else put the entire matter in the hands of the judge for such disposition as is proper?

I think the verdicts of juries are generally correct. Certainly there is no other known system that would do so well. Their verdicts are as often correct as the decisions of the judges. After all a judge is nothing more nor less than a jury of one, and when questions of fact are to be decided, I think a jury of twelve honest and intelligent men are more apt to reach a correct conclusion than any judge, however learned and honest he may be.

When our criminals are tried promptly; when our judges disregard absurd and useless technicalities; when the verdicts of juries are permitted to stand, then, and not till then, will the criminal laws of Virginia be properly enforced.

Yours truly, W. O. HARDAWAY, VERDICTS SET ASIDE.

JOHN W. RIELY, ESQ. The Suggestions of One of the Revisers of the Code of 1887. To the Editor of the Dispatch:

In a paper read before the State Bar Association at its annual meeting held in July, 1892, on "Criminal Laws and Their July, 1892, on "Criminal Laws and Their Administration," I referred to this subject, and as I have since had no reason to change the views then expressed, I do not see that I can better answer your letter than by furnishing the following extract from it:
"One of the main causes of dissatisfaction with criminal prosecutions is the delay that usually attends the trial for serious offences.
"Continuances from term to term are secured in one way or another. The case lingers; the persons immediately interested in the prosecution and the witnesses grow weary of it; all lose heart, and the trial terminates in an acquittal or with some light and insufficient punshment. "THE VERDICTS OF JURIES."Criminals escape also through the in-

THE VERDICTS OF JURIES.

"Criminals escape also through the incompetency or dishonesty of jurors the penalty justly due their crimes or are visited with punishment so slight as to stamp the trial as a travesty upon justice; but no impression is made upon the general public until some crime, which has excited its interest goes unpunished and it is shocked by the verdict.

"When guilty men, through the verdicts of juries, escape punishment, complaint is loud that trial by jury is a failure, and the law itself is reproached. It comes, too, from the intelligent, the conservative and law-abiding citizens, who are the best qualified to perform the important duties of jurors, but who, oftsner than otherwise, have secured for themselves exemption from service on juries, or when called upon to render such service, manifest great repugnance to doing so and offer every possible excuse and interpose any obstacle to escape from it. "

"The public service renders proper some exemptions from this duty, but they should be no more than are necessary. Few persons are aware of the extent of these exemptions unless they have taken the pains to examine into the subject. A full page of the Code is occupied in merchy enumerating by classes the persons exempted. "

MOTION IN ARREST OF JUDGMENT."

Thave case other supposition to make, and that is an assentence to the criminal.

complaint.

GOOD MEN FOR JURORS.

"It is believed that if the judges of the courts for the trial of criminal offences will at all times carefully select the persons from whom juries are to be impaneled and take none but those who are qualified' in, the full meaning of that word; that if good men, when selected, will consent to serve or be required to do so; that if the courts will use all proper effort to compel a 'prompt' trial of the cases; and that if the Legislature will enact a statute something like that indicated above, society will have no occasion to complain that guilty men escape the penalty for their crimes by the law's delays or through the verdict of incompetent, dishonest, or corrupt jurors, and punishment by lynch law will be rarely inticted."

Respectfully yours,

JOHN W. RIELY.

Halifax, October 18, 1833. GOOD MEN FOR JURORS.

ROBERT M. HUGHES, ESQ.

Misconception as to Technicalities-Ill-Paid Judge .- Jury Service, Etc. NORFOLK, VA., October 18, 1893.

To the Editor of the Dispatch; Presuming that your inquiry relates mainly to Virginia, I will confine my reply o our own State.

I think too well of our Court of Appeals I think too well of our Court Court of Appendix to believe that they reverse on trivial technicalities. The popular mind is too prone to denounce as a technicality the application to a special case of some great legal principle to which any one would at once assent when stated in the abstract. And yet when its disregard operates to give a new trial, they ignore the numerous cases in which it works.

RECENT CASES EXAMINED.

An examination of the last volume of official reports shows that of the criminal cases taken up, nine were affirmed and seven were reversed. Of the reversals five were because the evidence was insufficient, one because of erroneous instructions, and one (the Miller case) because the prisoner was deprived of his right of jury trial. I would not call any of these a technicality. Of the affirmances there was scarcely an instance in which the court did not over-rule some technicality. I do not believe that there is great tardiness in enforcing the law. But the the cause is rather in the administration than in the law itself. Most of the counties have but two circuit terms a year, lasting never more than a fortnight. This does not give the necessary time to try cases, whether original or appellate, and even those tried are rushed from start to finish, thereby increasing the chances of error. In addition, there are two appeals in most criminal cases—namely, first to the Circuit Court and then to the Court of Appeals.

Recurring to figures we find that in 88 RECENT CASES EXAMINED.

Appeals ing to figures we find that in 88 Va. nine were affirmed and seven reversed, in 87 Va. three were affirmed and eight reversed, and in 88 Va. ten were affirmed and eight reversed. THE REMEDY.

THE REMEDY.

Now what is the remedy?
The coming General Assembly has it its hands. It, as an average, the circ judges decide right in less than half it cases, the average of talent among the must be worse than mediocre. We is doubtedly have many very good ones, I we must also have some very poor on Hence the Legislature should exercise sial care in their selection. Since creased criminal costs and delays a matters that affect the State at large ach legislator should be as careful in telection of a distant judge as of his local process. JUDGES' SALARIES.

As far as legislation is concerned, the ret needed is an increase of judicial salars, so as to widen the range of selection to the best material. Cheap law is ONE APPEAL ENOUGH.

ONE APPEAL ENOUGH.

The next legislation needed is to give but one appeal in any one case, taking it straight to the Court of Appeals from the court of original jurisdiction, or perhaps, making the Circuit Court the court of last resort in minor criminal cases.

The law in relation to the formation of juries is also responsible for much delay. There are so many exemptions from jury strice, and so many things to disqualify the few who are not exempt, that the mere empanneling of a jury frequently takes days. Indeed, it is hard to make up a jury even in civil cases.

JURY SERVICE.

JURY SERVICE. The obligation of jury service ought to be as rigidly enforced as that of paying taxes, and any exemption which makes either operate unequally is impolitic. In my judgment the modification of the criminal law in the above particulars would make it as rapid as the ends of justice require, for it must always be remembered that fairness to the accused frequently demands a little delay in order to allow the excitement of the moment to subside.

Yours truly, ROBERT M. HUGHES.

R. E. BYRD, ESQ. Nothing is Trival Where a Man's Life or Liberty is at Stake."

To the Editor of the Dispatch
I do not think that the appellate courts generally, and especially our own Court of Appeals, can be justly accused of defeating justice by reversing for feating justice by reversing for trivial technicalities. Nothing is trivial where a man's life or liberty is at stake, end nothing is less trivial than the great trincipal that an accused must be tried in strict accordance with the laws. Law is a system of rules, and if these rules could be changed at will to meet the supposed abstract justice of each particular case, there would soon be no rule and no law. I confess I see very little excuse for a reversal. The laws of crimical procedure are few, simple, and well-established, and a competent prosecuting attorney with an orilinarily-equipped trial judge ought to be able to keep reversible error out of the record.

THE COURTS TRUSTY.

indge ought to be able to keep reversione error out of the record.

THE COURTS TRUSTY.

In an experience of nine years as prosecuting attorney for Frederick county I have never had a case reversel by our Court of Appeals, nor failed to secure a conviction save once before the trial court. Crime in my county is, fortunately, rare, but whenever an offence is committed the punishment is swift, certain, and inexorable. In no case do our juries fail to convict where there is sufficient evidence. I think the law is very well. Most of its rules are based upon the wisdom and experience of centuries.

SOME CHANGES SUGGESTED. SOME CHANGES SUGGESTED.

SOME CHANGES SUGGESTED.

Some minor changes, such as allowing an accused to waive jury trial, and making it obligatory upon the Court of Appeals to establish ruies requiring the trial of all appeals as soon as possible after granting the writ of error, would doubtless expedite justice.

I think, also, that an attempt to commit rape should be made punishable with death or imprisonment, in the discretion of the jury.

of the jury.
Yours truly.
Winchester, Va., October 17th.

BIG WITH PATRIOTISM. A Light-Weight Vigilant Man Pights

Heavy-Weight Valkyrie. The living issue that led to bloodshed in City Hall Park early Sunday morning was the Vigilant-Valkyrie race, says the New York Herald.

City Hall Park early Sunday morning was the Vigilant-Valkyrie race, says the New York Herald.

Thomas Lennon, who had fastened his hopes upon the Vigilant from the first, and who would have staked his socks upon her had he had any, had slept soundly on one of the benches from the time the policeman made his last round until John A. Lutkins, who had been equally sure that the Valkyrie would win and therefore had been unable to go to sleep again as he sat in the next seat on the bench thinking about the contest, roused him with a nudge and said: "Say, the Vigilant had no right to race the Valkyrie, anyhow. She is not a yacht. She's only a counterfeit."

"I know all about that," drowsily replied the weary Lennon. "She couldn't be passed.

Lutkins scratched his head for a moment and then rejoined:

"Well, the Valkyrie would have got there anyhow if Lord Dunraven had only paid his man so as to keep 'em good natured and ready to do their best."

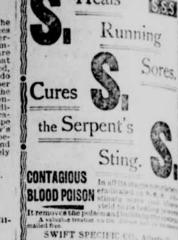
"Why, how's that?" said Lennon, displaying more interest than before. "I don't believe it."

"Well, he couldn't pay 'em because he didn't have a centra-board," said Lennon. This was too much.

Lennon was awake in a minute and punched Lutkins in the jaw, although he stands more than six feet in his stockings.

Lutkins knocked Lennon down at once, and in an instant the crowd of tatterdermulions who were sleeping in the park left their benches and formed a ring about the fighters. Lennon pelled his 130 younds up from the dewalk and sent leathing grant with another well-directed blow. Then they are perfectly and the stands more than air feet in has a decided his way through the park left their benches and formed a ring about the fighters. Lennon pelled his 130 younds up from the dewalk and aent leathing grant with another well-directed blow. Then they are perfectly and the stands how a stock and the way through the stands how a stock and the way through the stands had sent perfectly and the stands had sent perfectly the stands had sent perfectly the stands had sent perfectly the

things where you find 'em'? In gone, the nails are newhere, and find the bammer. Your makes had them all to-day. had them all to-day.
Son: I left them right where I found them.
You did, ch? Where did you find them. Out in the back yard, where you be Heals 003 Running



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